

**PUBLIC NOTICE**  
**INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION**  
**CITY OF SAN JOSÉ, CALIFORNIA**

***Project File Number, Description, and Location***

**PDC06-082.** A proposed rezoning from R-1-5 Residential Zoning District to A(PD) Planned Development Zoning District to allow for the development of up to 6 (six) single-family detached residences of which two of the residences are existing on a 0.8 gross acre site and subsequent permits, at the north side of Elden Drive, approximately 500 feet easterly of South Bascom Avenue. (Richard S. McLeod & John A. Giosso, Owner(s) and Developer) Council District: 9

California State Law requires the City of San José to conduct environmental review for all pending projects that require a public hearing. Environmental review examines the nature and extent of any potentially significant adverse effects on the environment that could occur if a project is approved and implemented. The Director of Planning, Building & Code Enforcement would require the preparation of an Environmental Impact Report if the review concluded that the proposed project could have a significant unavoidable effect on the environment. The California Environmental Quality Act (CEQA) requires this notice to disclose whether any listed toxic sites are present. The project location **does not** contain a listed toxic site.

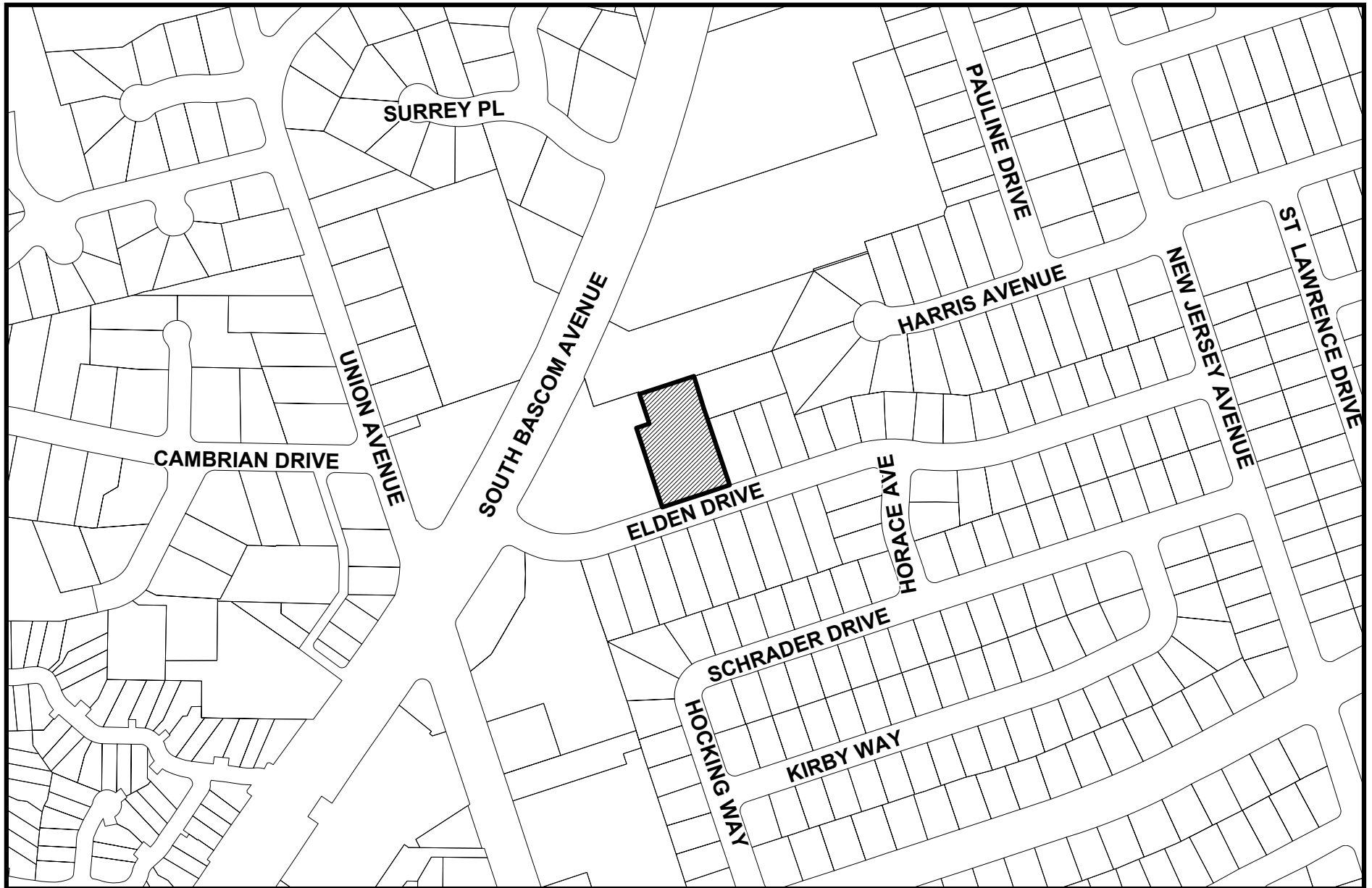
Based on an initial study, the Director has concluded that the project described above will not have a significant effect on the environment. We have sent this notice to all owners and occupants of property within 500 feet of the proposed project to inform them of the Director's intent to adopt a Mitigated Negative Declaration for the proposed project on **June 02, 2008**, and to provide an opportunity for public comments on the draft Mitigated Negative Declaration. The public review period for this draft Mitigated Negative Declaration begins on **May 13, 2008** and ends on **June 02, 2008**.

A public hearing on the project described above is tentatively scheduled for **June 25, 2008** at **6:30 p.m** in the City of San Jose Council Chambers, 200 East Santa Clara Street, San Jose, CA 95113. The draft Mitigated Negative Declaration, initial study, and reference documents are available for review under the above file number from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, City Hall, 200 East Santa Clara Street, San José CA 95113-1905. The documents are also available at the Dr. Martin Luther King, Jr. Main Library, 150 E. San Fernando St, San José, CA 95112, and the **Cambrian Branch** Library, San José, CA, and online at <http://www.sanjoseca.gov/planning/eir/MND.asp> Adoption of a Negative Declaration does not constitute approval of the proposed project. The decision to approve or deny the project described above will be made separately as required by City Ordinance. For additional information, please call **John Davidson or Suparna Saha** at (408) 535-3555.

Joseph Horwedel, Director  
Planning, Building and Code Enforcement

Circulated on: May 13, 2008

\_\_\_\_\_  
Deputy



Scale: 1"= 300'

Map Created On: 07/19/2006

Noticing Radius: 500 feet

File No: PDC06-082

District: 9

Quad No: 113

**DRAFT**  
**MITIGATED NEGATIVE DECLARATION**

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

**NAME OF PROJECT:** Elden Drive Residential Project

**PROJECT FILE NUMBER:** PDC06-082

**PROJECT DESCRIPTION:** Planned Development Rezoning from R-1-5 Residential Zoning District to A(PD) Planned Development Zoning District to allow up to six (6) single-family detached residences of which two of the residences are existing on a 0.80 gross acre site and subsequent permits.

**PROJECT LOCATION & ASSESSOR'S PARCEL NOS.:** 412-21-047; 412-21-046

**COUNCIL DISTRICT:** 9

**APPLICANT CONTACT INFORMATION:**

Richard S. McLeod, 679 Elden Drive, Campbell, CA 95008.

John A. Giossa, 681 Elden Drive, Campbell, CA 95008.

**FINDING**

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

**MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL**

**I. AIR QUALITY** – The Environmental issues and Mitigation Measures are as follows:

- Water all active construction areas at least twice daily and more often during windy periods to prevent visible dust from leaving the site; active areas adjacent to windy periods; active areas adjacent to existing land uses shall be kept damp at all times, or shall be treated with non-toxic stabilizers or dust palliatives.
- Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least 2 feet of freeboard;
- Pave, apply water at least three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.

- Sweep daily (or more often if necessary) to prevent visible dust from leaving the site (preferably with water sweepers) all paved access roads, parking areas, and staging areas at construction sites; water sweepers shall vacuum up excess water to avoid runoff-related impacts to water quality; and
- Sweep streets daily, or more often if necessary (preferably with water sweepers) if visible soil material is carried onto adjacent public streets.

**II. BIOLOGICAL RESOURCES** – The Environmental issues and Mitigation Measures are as follows. All trees that are to be removed shall be replaced at the following ratios:

Diameter of Tree to be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
18 inches or greater	4:1	4:1	4:1	24-inch box
12 - 18 inches	2:1	2:1	none	24-inch box
less than 12 inches	1:1	1:1	none	15-gallon container
x:x = tree replacement to tree loss ratio				
<b>Note:</b> Trees greater than 18" diameter shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees.				

No rare, threatened or special status species of flora or fauna are known to inhabit the site.

All tree preservation, protection and transplanting shall be executed by a qualified arborist. (For more details please refer to the Tree Report). Retaining walls of approximately 2 feet in height may be required to be installed in order to protect the tree trunks and root system. This shall be implemented at the Planned Development Permit stage to the satisfaction of the Director of Planning, Building and Code Enforcement.

The species and exact number of trees to be planted on the site will be determined in consultation with the City Arborist and the Department of Planning, Building, and Code Enforcement. In the event the developed portion of the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures will be implemented at the permit stage:

- An alternative site(s) will be identified for additional tree planting. Alternative sites may include local parks or schools or installation of trees on adjacent properties for screening purposes to the satisfaction of the Director of the Department of Planning, Building, and Code Enforcement
- A donation of \$300 per mitigation tree to Our City Forest ( a non-profit organization) for in-lieu off-site tree planting in the community. These funds will be used for tree planting and maintenance of planted trees for approximately three years. A donation receipt for off-site tree planting will be provided to the Planning Project Manager prior to issuance of development permit.
- The following tree protection measures will also be included in the project in order to protect trees to be retained during construction:
- Pre-construction treatments
  1. The applicant shall retain a consulting arborist. The construction superintendent shall meet with the consulting arborist before beginning work to discuss work procedures and tree protection.

2. Fence all trees to be retained to completely enclose the TREE PROTECTION ZONE prior to demolition, grubbing or grading. Fences shall be 6 ft. chain link or equivalent as approved by consulting arborist. Fences are to remain until all grading and construction is completed.
  3. Prune trees to be preserved to clean the crown and to provide clearance. All pruning shall be completed or supervised by a Certified Arborist and adhere to the Best Management Practices for Pruning of the International Society of Arboriculture.
- During construction
    1. No grading, construction, demolition or other work shall occur within the TREE PROTECTION ZONE. Any modifications must be approved and monitored by the consulting arborist.
    2. Any root pruning required for construction purposes shall receive the prior approval of, and be supervised by, the consulting arborist.
    3. Supplemental irrigation shall be applied as determined by the consulting arborist.
    4. If injury should occur to any tree during construction, it shall be evaluated as soon as possible by the consulting arborist so that appropriate treatments can be applied.
    5. No excess soil, chemicals, debris, equipment or other materials shall be dumped or stored within the TREE PROTECTION ZONE.
    6. Any additional tree pruning needed for clearance during construction must be performed or supervised by an Arborist and not by construction personnel.
    7. As trees withdraw water from the soil, expansive soils may shrink within the root area. Therefore, foundations, footings and pavements on expansive soils near trees shall be designed to withstand differential displacement.

**CULTURAL RESOURCES – Archaeology.** There shall be monitoring of site excavation activities to the extent determined by a qualified professional archaeologist to be necessary to insure accurate evaluation of potential impacts to prehistoric resources.

Pursuant to Section 7050.5 of the Health and Safety Code, and Section 5097.94 of the Public Resources Code of the State of California in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.

**III. GEOLOGY AND SOILS –** Implementing the following measures would mitigate the impacts described below: The

The project shall incorporate all recommendations set forth in the geotechnical investigations prepared for the development by American Soils Testing Inc. (File No. 06-2791-S), December 15, 2006 including but not limited to:

- The site shall be underlain by a minimum of 12 inches of non-expansive fill layer or lime –treated native soil material with 4% quick lime and compacted to at least 90% relative maximum density.
- Building pads should be elevated above the adjacent ground to promote proper drainage and diversion of water away from building foundations.
- For trenches excavated greater than 5 feet in depth, shoring will be required.

- All water well (if encountered in the field) shall be capped according to the requirements of the Santa Clara Valley Water District. The final elevation of top of the well casing must be a minimum of 36 inches below any adjacent grade prior to any grading or fill operation. In no case should any structural foundation be placed over the capped well.

**IV. HYDROLOGY AND WATER QUALITY** – Implementing the following would mitigate the impact described above:

- Prior to the issuance of a grading permit, the applicant must submit a Notice of Intent to the State Water Resources Control Board and prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity to the satisfaction of the Director of Public Works.
- Prior to the issuance of a Planned Development Permit, the applicant must provide details of specific best management practices (BMPs) including, but not limited to, bioswales, disconnected downspouts, landscaping to reduce impervious surface area, and inlets stenciled, “No dumping – Flows to Bay” to the satisfaction of the Director of Planning, Building and Code Enforcement.
- A grading permit may be required prior to the issuance of a Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the storm drain system from the site. An erosion control plan may be required with the grading application..
- This project must comply with the City’s Post Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) that include site design measures, source controls, and storm water treatment controls to minimize storm water pollutants discharges.

**V. NOISE**

- Construction will be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific construction noise mitigation plan and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.
- The contractor shall use “new technology” power construction equipment with state-of-the-art noise shielding and muffling devices. All internal combustion engines used on the project site shall be equipped with adequate mufflers and shall be in good mechanical condition to minimize noise created by faulty or poor maintained engines or other components
- Staging areas shall be located a minimum of 200 feet from noise sensitive receptors, such as residential uses.
- Weekend construction hours, including staging of vehicles, equipment and construction materials, shall be limited to Saturdays between the hours of 9 a.m. to 5 p.m. Permitted work activities shall be conducted exclusively within the interior of enclosed building structures provided that such activities are inaudible to existing adjacent residential uses. Exterior generators, water pumps, compressors and idling trucks are not permitted. The developer shall be responsible for educating all contractors and subcontractors of said construction restrictions. Rules and regulation pertaining to all construction activities and limitations identified in this permit, along with the name and telephone number of a developer appointed disturbance coordinator, shall be posted in a prominent location at the entrance to the job site. The Director of Planning, at his discretion, may rescind provisions to allow extended hours of construction activities on weekends upon written notice to the developer.

## **PUBLIC REVIEW PERIOD**

Before 5:00 p.m. on **June 02, 2008** any person may:

1. Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
2. Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND; or
3. File a formal written protest of the determination that the project would not have a significant effect on the environment. This formal protest must be filed in the Department Planning, Building and Code enforcement, 200 East Santa Clara Street, San Jose 95113-1905 and includes a \$100 filing fee. The written protest should make a "fair argument" based on substantial evidence that the project will have one or more significant effects on the environment. If a valid written protest is filed with the Director of Planning, Building & Code Enforcement within the noticed public hearing period, the Director may (1) adopt the Mitigated Negative Declaration and set a noticed public hearing on the protest before the Planning Commission, (2) require the project applicant to prepare an environmental impact report and refund the filing fee to the protestant, or (3) require the Draft MND to be revised and undergo additional noticed public review, and refund the filing fee to the protestant.

Joseph Horwedel, Director  
Planning, Building and Code Enforcement

Circulated on: May 13, 2008

\_\_\_\_\_  
Deputy

Adopted on: \_\_\_\_\_

\_\_\_\_\_  
Deputy

Revised 10/19/07 JAC